

RECORDATION NO. 9811 Filed 1425

OCT 31 1978.1 05 PM
CRAVATH, SWAINE & MOORE
INTERSTATE COMMERCE COMMISSION
ONE CHASE MANHATTAN PLAZA

MAURICE T. MOORE
BRUCE BROMLEY
WILLIAM B. MARSHALL
RALPH L. McAFEE
ROYALL VICTOR
ALLEN H. MERRILL
HENRY W. DE KOSMIAN
ALLEN F. MAULSBY
STEWART R. BROSS, JR.
HENRY P. RIORDAN
JOHN R. HUPPER
SAMUEL C. BUTLER
WILLIAM J. SCHRENK, JR.
BENJAMIN F. CRANE
FRANCIS F. RANDOLPH, JR.
JOHN F. HUNT
GEORGE J. GILLESPIE, III
RICHARD S. SIMMONS
WAYNE E. CHAPMAN
THOMAS D. BARR
MELVIN L. BEDRICK
GEORGE T. LOWY
ROBERT ROSENMAN

JAMES H. DUFFY
ALAN J. HRUSKA
JOHN E. YOUNG
JAMES M. EDWARDS
DAVID G. ORMSBY
DAVID L. SCHWARTZ
RICHARD J. HIEGEL
FREDERICK A. O. SCHWARZ, JR.
CHRISTINE BESHAR
ROBERT S. RIFKIND
DAVID O. BROWNWOOD
PAUL M. DODYK
RICHARD M. ALLEN
THOMAS R. BROME
ROBERT D. JOFFE
ROBERT F. MULLEN
ALLEN FINKELSON
RONALD S. ROLFE
JOSEPH R. SAHID
PAUL C. SAUNDERS
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DOUGLAS D. BROADWATER
ALAN C. STEPHENSON

NEW YORK, N.Y. 10005

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TELEX

RCA 233663

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INTERSTATE COMMERCE COMMISSION

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CABLE ADDRESSES
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CRAVATH, PARIS
CRAVATH, LONDON E.C. 2

RECORDATION NO. 9811 Filed 1425

OCT 31 1978.1 05 PM

INTERSTATE COMMERCE COMMISSION

No. 8-334A-18

Date OCT 31 1978

Fee \$200.00

ICC Washington, D. C.

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INTERSTATE COMMERCE COMMISSION

October 31, 1978

RECORDATION NO. 9811 Filed 1425
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INTERSTATE COMMERCE COMMISSION
The Chesapeake and Ohio Railway Company
Lease Financing Dated as of October 1, 1978
9-3/8% Conditional Sale Indebtedness
Due February 15, 1987

Pursuant to Section 20c of the Interstate Commerce Act, as amended, and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of The Chesapeake and Ohio Railway Company, for filing and recordation, counterparts of the following:

(1) Reconstruction and Conditional Sale Agreement dated as of October 1, 1978, among Mercantile-Safe Deposit and Trust Company, The Chesapeake & Ohio Railway Company and Connell Rice & Sugar Co., Inc. (Connell Leasing Company Division);

(2) Transfer Agreement dated as of October 1, 1978, between Mercantile-Safe Deposit and Trust Company and Connell Rice & Sugar Co., Inc. (Connell Leasing Company Division);

(3) (a) Lease of Railroad Equipment dated as of October 1, 1978, between The Chesapeake and Ohio Railway Company and Connell Rice & Sugar Co., Inc. (Connell Leasing Company Division);

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I.C.C.
FEE OPERATION BR.

Connelly
David W. Keller

(b) Assignment of Lease and Agreement dated October 1, 1978, between Connell Rice & Sugar Co., Inc. (Connell Leasing Company Division), and Mercantile-Safe Deposit and Trust Company; and

(4) Hulk Purchase Agreement dated as of October 1, 1978, between the Chesapeake and Ohio Railway Company and Connell Rice & Sugar Co., Inc. (Connell Leasing Company Division).

The addresses of parties to the aforementioned agreements are:

Owner-Lessor-Vendee-Buyer

Connell Rice & Sugar Co., Inc. *Vendee*
(Connell Leasing Company Division)
45 Cardinal Drive
Westfield, New Jersey 07902

Builder

Builder
The Chesapeake & Ohio Railway Company
2 North Charles Street
Baltimore, Maryland 21201

Lessee-Railroad-Seller

The Chesapeake & Ohio Railway Company
2 North Charles Street
Baltimore, Maryland 21201

Agent-Vendor

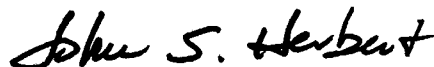
Vendor to Agency for ml
Mercantile-Safe Deposit and Trust Company
Two Hopkins Plaza
P.O. Box 2258
Baltimore, Maryland 21203

Please file and record the documents referred to in this letter, and cross-index them under the names of the Owner-Lessor-Vendee-Buyer, the Builder, the Lessor-Railroad-Seller and the Agent-Vendor.

The equipment covered by the Hulk Purchase Agreement is listed in Exhibit A attached hereto. The equipment covered by the Reconstruction and Conditional Sale Agreement, the Transfer Agreement and the Lease is listed in Exhibit B attached hereto. Each unit of reconstructed railroad equipment bears the legend "Subject to a Security Agreement filed with the Interstate Commerce Commission".

Enclosed is our check for \$200 for the required recordation fee. Please accept for recordation one counterpart of each of the enclosed agreements, stamp the remaining counterparts with your recordation number and return them to the delivering messenger along with your fee receipt, addressed to the undersigned.

Very truly yours,



John S. Herbert
As Agent for The Chesapeake
and Ohio Railway Company

H. G. Homme, Esq., Acting Secretary,
Interstate Commerce Commission,
Washington, D.C. 20423

Encls.

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BY HAND

RECORDATION NO. 9811 Filed 1425

EXECUTED IN 9 COUNTERPARTS
OF WHICH THIS IS NO. 9

OCT 31 1978 - 1 05 PM

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF LEASE AND AGREEMENT

Dated as of October 1, 1978

between

CONNELL RICE & SUGAR CO., INC.
(Connell Leasing Company Division)

and

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
not in its individual capacity but solely
as Agent

ASSIGNMENT OF LEASE AND AGREEMENT

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LESSEE'S CONSENT AND AGREEMENT	

ASSIGNMENT OF LEASE AND AGREEMENT dated as of October 1, 1978, by and between CONNELL RICE & SUGAR CO., INC. (Connell Leasing Company Division), a New Jersey corporation (hereinafter called the Lessor or the Vendee), and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, not in its individual capacity but solely as Agent (hereinafter called the Vendor), under a Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement).

The Vendee and the Vendor have entered into a Reconstruction and Conditional Sale Agreement dated as of the date hereof (hereinafter called the RCSA), with The Chesapeake and Ohio Railway Company, in its capacity as builder, providing for the sale to the Vendee of the interest of the Vendor in such units of railroad equipment (hereinafter called the Units) described in Schedule A thereto as are delivered to and accepted by the Vendee thereunder.

The Lessor and The Chesapeake and Ohio Railway Company (hereinafter called the Lessee) have entered into a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease), providing for the leasing by the Lessor to the Lessee of the Units.

In order to provide security for the obligations of the Lessor under the RCSA and as an inducement to the Vendor to invest on behalf of the Investors as defined in the Participation Agreement in the CSA Indebtedness (as that term is defined in the RCSA), the Lessor has agreed to assign for security purposes certain of its rights in, to and under the Lease to the Vendor.

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. The Lessor hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the obligations of the Lessor as Vendee under the RCSA, all the Lessor's right, title and interest, powers, privileges, and other benefits under the Lease,

including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity (except such amounts of indemnity payable to or receivable by the Lessor pursuant to Section 15 of the Lease), liquidated damages, or otherwise (such moneys being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Lessor is or may become entitled to do under the Lease. Notwithstanding the foregoing, Payments shall not be deemed to include payments made by the Lessee to the Vendee pursuant to Sections 5 and 8 of the Lease (except indemnification payments owing to the Vendor pursuant to Articles 5 and 12 of the RCSA and except to the extent that the Vendee is obligated to pay and discharge claims, liens, charges or security interests under Paragraph 9 of this Assignment). In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Vendor in its own name, or in the name of its nominee, or in the name of the Lessor or as its attorney, to ask, demand, sue for, collect and receive any and all sums to which the Lessor is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Vendor agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Vendor will apply such Payments to satisfy the obligations of the Lessor under the RCSA due and payable at the time such Payments are due and payable under the Lease, and so long as no event of default (or event which, with notice or lapse of time, or both, could constitute an event of default) under the RCSA shall have occurred and be continuing, any balance shall be paid to the Lessor, or to such other party as the Lessor may direct in writing, in Federal funds not later than the first business day following receipt of such balance. If the Vendor shall not receive any rental payment under Section 2 of the Lease when due, the Vendor shall promptly notify the Lessor at the address set forth in the Lease; provided, however, that the failure of the Vendor to so notify the Lessor shall not affect the obligations of the Lessor hereunder or under the RCSA.

2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Vendor to, or transfer, or pass, or in any way affect or modify the liability of the Lessor under the Lease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the Lessor to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Lessor or persons other than the Vendor.

3. To protect the security afforded by this Assignment the Lessor agrees that, without the written consent of the Vendor, the Lessor will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Lessor agrees that any amendment, modification or termination thereof without such consent shall be void; provided, however, that the Lessor may amend or supplement the Lease to provide for an increase or decrease of amounts due as rentals under Section 2 thereof and/or Casualty Values under Section 6 thereof provided that no such decrease shall reduce said amounts below that which are necessary to satisfy the obligations of the Lessor under the RCSA, notwithstanding any limitation of liability of the Lessor contained therein.

4. The Lessor does hereby constitute the Vendor the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor, or otherwise), to ask, require, demand, and receive, any and all Payments due and to become due under or arising out of the Lease to which the Lessor is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Vendor may deem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Lessor's obligations under the RCSA and the Participation Agreement, this Assignment and all rights herein assigned to the Vendor shall terminate, and all estate, right, title

and interest of the Vendor in and to the Lease shall revert to the Lessor.

6. If an event of default under the RCSA shall occur and be continuing, the Vendor may declare all sums secured hereby immediately due and payable and may apply all such sums against the amounts due and payable under the RCSA.

7. The Lessor will, from time to time, do and perform any other act and will execute, acknowledge, deliver and file, register, deposit and record (and will refile, re-register, re-record or redeposit whenever required) any and all further instruments required by law and reasonably requested by the Vendor in order to confirm or further assure, the interests of the Vendor hereunder.

8. The Vendor may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Vendor hereunder; provided, however, the Vendee and the Lessee shall not be bound to honor such assignment until they have received written notice thereof. Payment to the assignee of any Payments shall constitute full compliance with the terms of this Agreement and the Lease. The Vendee and the Lessee may rely on instruments and documents of assignment which they believe in good faith to be true and authentic.

9. The Lessor will pay and discharge any and all claims, liens, charges or security interests (other than created by the RCSA) on the Lease or the rentals or other payments due or to become due thereunder claimed by any party from, through or under the Lessor or its successors and assigns (other than the Vendor), not arising out of the transactions contemplated by the RCSA or the Lease (but including tax liens arising out of the receipt of the income and proceeds from the Units) which, if unpaid, might become a claim, lien, charge or security interest on or with respect to the Lease or such rentals or other payments equal or superior to the Vendor's interest therein, unless the Lessor shall be contesting the same in good faith by appropriate proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect such interests of the Vendor.

10. This Assignment shall be governed by the laws of the State of Maryland, but the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act, as amended.

11. The Lessor shall cause copies of all notices received by it in connection with the Lease and all payments hereunder to be promptly delivered or made to the Vendor at its address set forth in Article 20 of the RCSA, or at such other address as the Vendor shall designate.

12. The Vendor hereby agrees with the Lessor that the Vendor will not, so long as no Event of Default under the Lease or event of default under the RCSA has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits which are assigned and transferred by the Lessor to the Vendor by this Assignment, except the right to receive and apply the Payments as provided in Paragraph 1 hereof, and that, subject to the terms of the Lease and the RCSA, the Lessor may, so long as no event of default under the RCSA or Event of Default under the Lease has occurred and is continuing, exercise or enforce, or seek to exercise or enforce or avail itself of, such rights, powers, privileges, authorizations or benefits; provided, however, that the Lessor shall not, and shall not have any authority to, take any action which would terminate the Lease without the prior written consent of the Vendor.

13. Notwithstanding any other provision of this Assignment (including, but not limited to, any provision of the first paragraph of Paragraph 1 and Paragraph 3 hereof), (a) the terms of this Assignment shall not impose any obligations on the Lessor in addition to the obligations of the Lessor under the Lease or under the RCSA or in any way limit the effect of the last paragraph of Article 3 of the RCSA or Article 21 of the RCSA and (b) so long as there is no event of default under the RCSA, and to the extent that the Vendor does not seek to receive and collect any Payments under the Lease in excess of the amounts required to discharge the obligations of the Lessor under the RCSA, the terms of this Assignment shall not limit or in any way affect the Lessor's right to receive and collect any Payments under the Lease in excess of the obligations of the Lessor under the RCSA, or empower the Vendor in any way to waive or release the Lessee's obligation to pay such excess amounts, and the Lessor shall continue to be empowered to ask, demand, sue

for, collect and receive any and all of such excess amounts, but shall not take any action under subparagraph (b) of Section 9 of the Lease without the written consent of the Vendor.

14. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument, but the counterpart delivered to the Vendor shall be deemed to be the original counterpart.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.


MERCANTILE-SAFE DEPOSIT AND TRUST
COMPANY, not in its individual
capacity but solely as Agent,

[Corporate Seal]

by


Assistant Vice President

Attest:


Corporate Trust Officer

CONNELL RICE & SUGAR CO., INC.
(Connell Leasing Company Division),

by


President

[Corporate Seal]

Attest:


Secretary



STATE OF MARYLAND,)
) ss.:
 CITY OF BALTIMORE,)

On this 30th day of October 1978, before me personally appeared George J. Johnston, to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Patricia A. Shilow
 Notary Public

[Notarial Seal]

My Commission expires 7-1-82



STATE OF NEW JERSEY,)
) ss.:
 COUNTY OF UNION,)

On this 27th day of October 1978, before me personally appeared Grover Connell, to me personally known, who, being by me duly sworn, says that he is President of CONNELL RICE & SUGAR CO., INC. (Connell Leasing Company Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Natalie P. Jerneman
 Notary Public

[Notarial Seal]

My Commission expires

NOTARY PUBLIC OF NEW JERSEY
 My Commission Expires Nov. 28, 1982



LESSEE'S CONSENT AND AGREEMENT

The undersigned, THE CHESAPEAKE AND OHIO RAILWAY COMPANY, a corporation duly incorporated under the laws of the Commonwealth of Virginia, the Lessee (hereinafter called the Lessee) named in the Lease (hereinafter called the Lease) referred to in the foregoing Assignment of Lease and Agreement (hereinafter called the Assignment), hereby (a) acknowledges receipt of a copy of the Assignment and (b) consents to all the terms and conditions of the Assignment and agrees that:

(1) Lessee will pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease assigned to the Vendor (as hereafter defined) pursuant to the Assignment in Federal or other immediately available funds by 10:00 a.m., Baltimore time on the date due to Mercantile-Safe Deposit and Trust Company, not in its individual capacity but solely as Agent (hereinafter called the Vendor), the assignee named in the Assignment, at 2 Hopkins Plaza, Baltimore, Maryland 21201, Attention of Corporate Trust Department (or at such other address as may be furnished in writing to the undersigned by the Vendor);

(2) the Vendor shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the undersigned under the Lease as though the Vendor were named therein as the Lessor;

(3) the Vendor shall not, by virtue of the Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Lease or otherwise; and

(4) the Lease shall not, without the prior written consent of the Vendor, be amended, terminated or modified, nor shall any action be taken or omitted by the undersigned, the taking or omission of which might result in an alteration or impairment of the Lease or this Consent and Agreement or of any of the rights created by any thereof.

This Consent and Agreement shall be construed in

accordance with the laws of the State of Ohio.

Dated as of October 1, 1978

THE CHESAPEAKE AND OHIO RAILWAY
COMPANY,

by

L.C. Fink
Assistant Vice-President
and Treasurer

[Corporate Seal]

Attest:

Patricia A. Turley
Assistant Secretary

APPROVED AS TO FORM
C.C. Kimball
CLERK OF COURT
10/30/78

The foregoing Consent and Agreement is hereby accepted,
as of the 1st day of October 1978.

MERCANTILE-SAFE DEPOSIT AND TRUST
COMPANY, not in its individual
capacity but solely as Agent,

by

H. J. Jones
Assistant Vice President

[Corporate Seal]

Attest:

H. J. Jones
Corporate Trust Officer

STATE OF OHIO,)
COUNTY OF CUYAHOGA,) ss.:

On this 30TH day of October 1978, before me personally appeared L. C. Roig, Jr., to me personally known, who, being by me duly sworn, says that he is Assistant Vice-President and Treasurer of THE CHESAPEAKE AND OHIO RAILWAY COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Class Wesley
Notary Public

[Notarial Seal]

CLARA MASUGA, Notary Public
State of Ohio - Cuyahoga County
My Commission Expires April 21, 1979

[illegible]

On this ^{30th} day of October 1978, before me personally appeared George J. Johnston, to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Patricia A. Shilow
Notary Public

[Notarial Seal]

My Commission expires

7/1/82